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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,075	06/15/2001	Marc Donis	A00774/70178 (EJR)	1583
34705	7590	12/17/2004	EXAMINER	
APRISMA MANAGEMENT TECHNOLOGIES, INC.			VINCENT, DAVID ROBERT	
273 CORPORATE DRIVE			ART UNIT	
PORTSMOUTH, NH 03801			PAPER NUMBER	
			2661	
DATE MAILED: 12/17/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,075

Applicant(s)

DONIS ET AL.

Examiner

David R Vincent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Fan (US 6,324,165).

As shown in Figs. 1-18, especially Fig. 3, Fan discloses a buffer element (e.g., 30 or 31, Fig. 3) comprising a first buffer (e.g. CBR buffer/queue in 30 or 32, OP1 or OL1, Fig. 3, and respective disclosure, col. 5, lines 25-28; col. 6, lines 57-67), a second buffer for a second QoS (e.g., VBR, ABR or UBR

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buffer/queue in 30 or 32, OP1 or OL1, Fig. 3, and respective disclosure), a buffer manager (e.g., the scheduler, inherent microprocessor/micro controller running the switch, or core, 34, Fig. 3 which stores ATM cells in input buffers based on QoS, retrieves them, stores them in the output buffers, and retrieves them for outputting, col. 5, lines 55-59; col. 6, lines 13-21 and 43-56), a sorter (the controller which reads the ATM VPI/VCI header and decides which buffer the store the cells in, and/or the intermediate controllers such as the core, and the schedulers which control which output buffers the cells get stored in), buffers have depths (reads on buffer/queue capacity) and the depths get adjusted (there is dynamic rate control and feedback which determines the current characteristics of the switch, the load or current capacity of the buffers and provides feedback to essentially load balance and control how many cells get stored in each buffer and make use of the extra capacity in the buffers, see dynamic rate based queues scheduler, Fig. 3 and respective, cols. 1-26, especially cols.7, line 45-col. 8, line 67; col. 9, lines 23-37; col. 10, lines 11-58; col. 12, lines 44-55; col. 13, line 4-col. 26, line 34), steepest ascent hill climbing search (not further defined, reads on DRC, cols. 1-26, especially congestion controlling, cols. 1-26, especially col. 22, lines 18-24), determining the characteristics of the switch

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(constantly monitoring the performance the switch, the buffers, the overflow conditions of the buffers, determining if one type of traffic is dominating the switch and load balancing has to be performed by using feedback, cols. 1-26, especially cols.7, line 45-col. 8, line 67; col. 9, lines 23-37; col. 10, lines 11-58; col. 12, lines 44-55; col. 13, line 4-col. 26, line 34, especially state information, col. 7, lines 58-67), buffer coupled to input and/or output ports (Fig. 3 and respective disclosure), assigning queue depths (e.g., using feedback, DRC and/or setting thresholds, cols. 1-26, especially col. 7, lines 50-57), and dropping units when queue is full (discarding ATM cells when buffers overflow or a state of congestion occurs, cols. 1-26, especially when no stop signal is used, col. 8, lines 47-49; dealing with UBR cells or low priority QoS data, col. 52-53; col. 16, line 66-col. 17, line 11; col. 23, lines 54-65; col. 24, lines 44-46), as specified in claims 1-32.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 571 272 3080. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571 272 3078. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David R Vincent
Primary Examiner
Art Unit 2661

December 11, 2004